IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE N.V. RAMANA
WRIT PETITION NO : 9755 of 2004

Between:
Mohd.Arifuddin, s/o Mohd. Adiruddin, aged 32 years,
R/o.H.No.9-14-129/2A, Mohammadia Colony,Nizamabad.

..... PETITIONER

AND

The Regional Passport Officer, Secunderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus (i) declaring the inaction of the respondent in not issuing fresh passport showing the petitioner's actual date of birth as 11-6-1973 as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice; consequently (ii) direct the respondent to issue fresh passport to the petitioner showing his actual date of birth as 11-6-1973.

For the Petitioner: MR.NANDIGAMKRISHNA RAO, Advocate

For the Respondent: MR.A.RAJASHEKAR REDDY (SC FOR CG)

The Court made the following Order:

W.P. No. 9755 of 2004

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Central Government for the respondent-Passport Authority.

It is the case of the petitioner that his actual date of birth is 1-1-1959, but in the Passport issued to him by the respondent, his date of birth is wrongly mentioned as 1-1-1956, and that though he represented to the respondent, to alter his date of birth in the Passport and issue fresh passport, the respondent is refusing to entertain the application on the ground that they have no power to make correction of date of birth in the Passport. The petitioner, therefore, filed the present writ petition praying to direct the respondent to entertain his application for correction of date of birth and issue fresh Passport.

It is required to notice that there is no provision under the Passports Act, 1967, which empowers the Regional Passport Officer to correct entries in the Passport. However, pursuant to the judgment of the High Court of Judicature at Bombay, in W.P. No. 1072 of 2000, the Government of India issued instructions/clarifications in Circular dated 18-4-2001, which are to the following effect:

(a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, effect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

As of today, if any request for correction of date of birth in the Passport is made, the Passport Issuing Authority is required to follow the aforementioned instructions. In that view of the matter, I deem it appropriate to dispose of the writ petition with the following directions:

The respondent is directed to receive the application of the petitioner for correction of date of birth in the Passport/issuance of fresh Passport, and process the same after verifying the genuineness or otherwise thereof basing on the documents the petitioner may file in

support of his case for change of date of birth, in the light of the aforementioned guidelines, and pass appropriate orders.

With the above directions, the writ petition is disposed of. No costs.

Date: June 17, 2004.
KSR

.ASSISTANT REGISTRAR

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SECTION OFFICER

To
1. The Regional Passport Officer, Secunderabad.
2.2CD copies.

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE N.V. RAMANA
WRIT PETITION NO : 9764 of 2004

Between:

Mohammed Faheem Shareef, S/o.Mohammed Farooq Shareef,
R/o.H.No.B.24/F.1, Maddannapet, Police Qrts.,
Hyderabad.

..... PETITIONER

AND

Regional passport officer, having office at clock Towers,
Near prashant Talkies,Secunderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction and more particularly one in the nature of writ of Mandamus directing the respondent to issue a new passport on a fresh application with correct date of birth of the petitioner as 25th February, 1978 instead of 20th February, 1974 at an early date.

For the Petitioner: MR.ABDUL NAJEEB KHAN

For the Respondent : Smt.A.P.Lakshmi, (Addl. SC FOR CG)

The Court at the admission stage made the following :

O R D E R:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Central Government for the respondent-Passport Authority.

It is the case of the petitioner that his actual date of birth is 25-2-1978, but in the Passport issued to him by the respondent, his date of birth is wrongly mentioned as 20-2-1974, and that though he represented to the respondent, to alter his date of birth in the Passport and issue fresh passport, the respondent is refusing to entertain the application on the ground that they have no power to make correction

of date of birth in the Passport. The petitioner, therefore, filed the present writ petition praying to direct the respondent to entertain his application for correction of date of birth and issue fresh Passport.

It is required to notice that there is no provision under the Passports Act, 1967, which empowers the Regional Passport Officer to correct entries in the Passport. However, pursuant to the judgment of the High Court of Judicature at Bombay, in W.P.
No. 1072 of 2000, the Government of India issued instructions/clarifications in Circular dated 18-4-2001, which are to the following effect:

(d) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, effect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

(e) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

(f) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

As of today, if any request for correction of date of birth in the Passport is made, the Passport Issuing Authority is required to follow the aforementioned instructions. In that view of the matter, I deem it appropriate to dispose of the writ petition with the following directions:

The respondent is directed to receive the application of the petitioner for correction of date of birth in the Passport/issuance of fresh Passport, and process the same after verifying the genuineness or otherwise thereof basing on the documents the petitioner may file in support of his case for change of date of birth, in the light of the aforementioned guidelines, and pass appropriate orders.

With the above directions, the writ petition is disposed of. No costs.

Date: June 17, 2004.
KSR

.ASSISTANT REGISTRAR

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SECTION OFFICER

To

1. The Regionall PassPort Officer,l Clock Tower, near Prasanth Talkies,
   Secunderabad, A.P., Hyderabad.
2. 2 CD copies.